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WILLARD T. BARBOUR

The faculty of the Yale Law School has once more suffered a very heavy loss. Professor Willard T. Barbour died of pneumonia on March 2, 1920. Professor Barbour entered upon his duties at Yale last September, having been chosen to fill the Southmayd Professorship and to give courses in equity and legal history. In the short period since then he had already won the love and respect of his students and his fellow teachers. His exceptional educational training, his assured loyalty to this school, his strong common sense, his almost boyish enthusiasm, and his gifted and winning personality had already made certain a successful and productive career at Yale.

Professor Barbour graduated from the University of Michigan, receiving the degree of B.A. in 1905 and the degree of LL.B. in 1908. Later he spent three years at Oxford, doing original research in the field of legal history under Sir Paul Vinogradoff. This resulted in

his publishing his *History of Contract in Early English Equity,* in the Oxford Studies in Jurisprudence. In 1912, Oxford conferred upon him the degree of B.Litt. From 1912 to 1919 he was first assistant professor and then professor of law in the University of Michigan Law School. There, as at Yale, he received ungrudging recognition as a legal scholar and the deepest of affection as a man. Professor Barbour had published several scholarly and original articles in law reviews and had just begun a series of lectures on legal history on the Carpentier foundation at Columbia University. The Yale Law School takes pride in its recognition of his already high accomplishment, holds in high regard the memory of his modest and winning personality, and mourns the heavy and untimely loss to legal scholarship and to the profession of law teaching.

## POWER OF EQUITY OVER PUBLIC ELECTIONS

In a recent Illinois case the secretary of state proposed to submit to the electors certain questions of public policy. It was alleged that to do so would be to exceed his power under the state constitution, and an injunction was asked to prevent it. It was held that "the court had no jurisdiction";[1] that "an injunction would not issue out of a court of equity for the purpose of restraining the holding of an election or in any manner directing the mode in which the same should be conducted" on the ground that it was a matter of a political nature, with which courts of equity had nothing to do. *Emerson v. Payne* (1919, Ill.) 125 N. E. 329. This limitation on the power of equity is asserted by the highest authorities,[2] but some of those courts which adopt it are inclined to leave for themselves a loophole;[3] and in the last thirty years in some very important cases it has been disregarded when a public wrong without other adequate remedy demanded it.[4]

[1] The court evidently meant no power to render any valid decree, even an erroneous one. For comment on the ambiguity of the word "jurisdiction" see (1915) 15 COL. L. REV. 106-107 and COMMENT (1919) 28 YALE LAW JOURNAL, 483, note 4.

[2] 4 Pomeroy, *Equity Jurisprudence* (4th ed. 1919) sec. 1753. "The traditional limits of proceedings in equity have not embraced a remedy for political wrongs. Holmes, J., in *Giles v. Harris* (1903) 189 U. S. 475, 486, 23 Sup. Ct. 639, 642.

[3] "We should not care to commit ourselves to the doctrine that a court of equity will not under any circumstance interfere for the protection of political rights." *Winnett v. Adams* (1904) 71 Neb. 817, 825, 99 N. W. 681, 684.

[4] *State ex rel. Lamb v. Cunningham* (1892) 83 Wis. 90, 53 N. W. 35 (restraint of election under unconstitutional apportionment law); *People v. Tool* (1905) 35 Colo. 225, 86 Pac. 224 (injunction against conducting an election fraudulently); *cf. Giddings v. Blacker* (1892) 93 Mich. 1, 52 N. W. 944 (*mandamus* used to restrain, in the absence of original jurisdiction to grant injunction); *cf. Attorney General v. Suffolk County Commissioners* (1916) 224 Mass. 598,